

# House File 587 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON HUMAN RESOURCES  
(SUCCESSOR TO HSB 102)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to adult day services regulation and providing  
2 penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1265HV 81  
5 pf/sh/8

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1 1 Section 1. Section 231D.1, Code 2005, is amended to read  
1 2 as follows:  
1 3 231D.1 DEFINITIONS.  
1 4 For the purposes of this chapter, unless the context  
1 5 otherwise requires:  
1 6 1. "Adult day services", "adult day services program", or  
1 7 "program" means an organized program providing a variety of  
1 8 ~~health~~ health-related care, social services, and other related  
1 9 support services for sixteen hours or less in a twenty-four=  
1 10 hour period to two or more persons with a functional  
1 11 impairment on a regularly scheduled, contractual basis.  
1 12 2. "Contractual agreement" means a written agreement  
1 13 entered into between an adult day services program and a  
1 14 participant that clearly describes the rights and  
1 15 responsibilities of the adult day services program and the  
1 16 participant, and other information required by rule.  
1 17 2- 3. "Department" means the department of elder affairs  
1 18 created in chapter 231.  
1 19 3- 4. "Functional impairment" means a psychological,  
1 20 cognitive, or physical impairment creating the inability to  
1 21 perform personal and instrumental activities of daily living  
1 22 and associated tasks necessitating some form of supervision or  
1 23 assistance or both.  
1 24 4- 5. "Governmental unit" means the state, or any county,  
1 25 municipality, or other political subdivision or any  
1 26 department, division, board, or other agency of any of these  
1 27 entities.  
1 28 6. "Health-related care" means services provided by a  
1 29 registered nurse or a licensed practical nurse, on a part-time  
1 30 or intermittent basis, and services provided by other licensed  
1 31 health care professionals, on a part-time or intermittent  
1 32 basis.  
1 33 7. "Medication setup" means assistance with various steps  
1 34 of medication administration to support a participant's  
1 35 autonomy, which may include but is not limited to routine  
2 1 prompting, cueing and reminding, opening containers or  
2 2 packaging at the direction of the participant, reading  
2 3 instructions or other label information, or transferring  
2 4 medications from the original container into suitable  
2 5 medication dispensing containers, reminder containers, or  
2 6 medication cups.  
2 7 8. "Participant" means an individual who is the recipient  
2 8 of services provided by an adult day services program.  
2 9 9. "Participant's legal representative" means a person  
2 10 appointed by the court to act on behalf of a participant, or a  
2 11 person acting pursuant to a power of attorney.  
2 12 10. "Personal care" means assistance with the essential  
2 13 activities of daily living which may include but are not  
2 14 limited to transferring, bathing, personal hygiene, dressing,  
2 15 grooming, and housekeeping that are essential to the health  
2 16 and welfare of a participant.  
2 17 5- 11. "Recognized accrediting entity" means a nationally  
2 18 recognized accrediting entity that the department recognizes

2 19 as having specific adult day services program standards  
2 20 equivalent to the standards established by the department for  
2 21 adult day services.  
2 22 ~~6- 12.~~ "Social services" means services relating to the  
2 23 psychological and social needs of the individual in adjusting  
2 24 to participating in an adult day services program, and  
2 25 minimizing the stress arising from that circumstance.  
2 26 ~~7- 13.~~ "Supervision" means direct oversight and  
2 27 inspection of the act of accomplishing a function or activity.  
2 28 Sec. 2. Section 231D.2, Code 2005, is amended to read as  
2 29 follows:  
2 30 231D.2 PURPOSE == INTENT == RULES ~~== SPECIAL~~  
~~2 31 CLASSIFICATIONS.~~  
2 32 1. The purpose of this chapter is to promote and encourage  
2 33 adequate and safe care for adults with functional impairments.  
2 34 2. It is the intent of the general assembly that the  
2 35 department of elder affairs establish policy for adult day  
3 1 services programs and that the department of inspections and  
3 2 appeals enforce this chapter.  
3 3 3. The department shall establish, by rule in accordance  
3 4 with chapter 17A, a program for certification and monitoring  
3 5 of and complaint investigations related to adult day services  
3 6 programs. The department, in establishing minimum standards  
3 7 for adult day services programs, may adopt by rule in  
3 8 accordance with chapter 17A, nationally recognized standards  
3 9 for adult day services programs. The rules shall include  
3 10 specification of recognized accrediting entities. The rules  
3 11 shall include a requirement that sufficient staffing be  
3 12 available at all times to fully meet a participant's  
3 13 identified needs. The rules shall include a requirement that  
3 14 no fewer than two staff persons who monitor participants as  
3 15 indicated in each participant's service plan shall be awake  
3 16 and on duty during the hours of operation when two or more  
3 17 participants are present. The rules and minimum standards  
3 18 adopted shall be formulated in consultation with the  
3 19 department of inspections and appeals and affected industry,  
3 20 professional, and consumer groups and shall be designed to  
3 21 accomplish the purpose of this chapter.  
3 22 ~~4. In addition to the adoption of standards and rules for~~  
~~3 23 adult day services programs, the department in consultation~~  
~~3 24 with the department of inspections and appeals and affected~~  
~~3 25 industry, professional, and consumer groups, shall issue~~  
~~3 26 interpretive guidelines, including the expectations of program~~  
~~3 27 certification monitors, to provide direction to adult day~~  
~~3 28 services programs in complying with certification~~  
~~3 29 requirements.~~  
3 30 ~~5- 4.~~ The department may establish by administrative  
3 31 rule, ~~special classifications for adult day services~~  
~~3 32 providers. The department of inspections and appeals shall~~  
~~3 33 issue separate certificates for each special classification~~  
~~3 34 for which a provider is certified. in accordance with chapter~~  
3 35 ~~17A, specific rules related to minimum standards for dementia=~~  
4 1 specific adult day services programs. The rules shall be  
4 2 formulated in consultation with the department of inspections  
4 3 and appeals and affected industry, professional, and consumer  
4 4 groups.  
4 5 Sec. 3. Section 231D.3, subsections 2, 4, and 5, Code  
4 6 2005, are amended to read as follows:  
4 7 2. An adult day services program may provide any type of  
4 8 adult day services for which the program is certified,  
~~4 9 including any special classification of adult day services.~~  
4 10 An adult day services program shall provide services and  
4 11 supervision commensurate with the needs of the ~~recipients~~  
4 12 participants. An adult day services program shall not provide  
4 13 services to individuals requiring a level or type of services  
4 14 for which the program is not certified and services provided  
4 15 shall not exceed the level or type of services for which the  
4 16 program is certified.  
4 17 4. A department, agency, or officer of this state or of  
4 18 any governmental unit shall not pay or approve for payment  
4 19 from public funds any amount to an adult day services program  
4 20 for an actual or prospective ~~recipient participant~~, unless the  
4 21 program holds a current certificate issued by the department  
4 22 of inspections and appeals and meets all current requirements  
4 23 for certification.  
4 24 5. The department shall adopt rules regarding the  
4 25 conducting or operating of another business or activity in the  
4 26 distinct part of the physical structure in which the adult day  
4 27 services program is provided, if the business or activity  
4 28 serves ~~nonrecipients of adult day services~~ persons who are not  
4 29 participants. The rules shall be developed in consultation

4 30 with the department of inspections and appeals and affected  
4 31 industry, professional, and consumer groups.

4 32 Sec. 4. Section 231D.3, Code 2005, is amended by adding  
4 33 the following new subsections:

4 34 NEW SUBSECTION. 6. The department of elder affairs and  
4 35 the department of inspections and appeals shall conduct joint  
5 1 training sessions for personnel responsible for conducting  
5 2 monitoring evaluations and complaint investigations of adult  
5 3 day services programs.

5 4 NEW SUBSECTION. 7. Certification of an adult day services  
5 5 program shall be for two years unless revoked for good cause  
5 6 by the department of inspections and appeals.

5 7 Sec. 5. Section 231D.4, subsection 2, paragraph b, Code  
5 8 2005, is amended by adding the following new subparagraph:

5 9 NEW SUBPARAGRAPH. (5) For certification via a national  
5 10 body of accreditation, one hundred twenty-five dollars.

5 11 Sec. 6. Section 231D.5, subsection 1, Code 2005, is  
5 12 amended to read as follows:

5 13 1. The department of inspections and appeals may deny,  
5 14 suspend, or revoke certification if the department of  
5 15 inspections and appeals finds that there has been a  
5 16 substantial or repeated failure on the part of the adult day  
5 17 services program to comply with this chapter or the rules or  
5 18 minimum standards adopted pursuant to this chapter, or for any  
5 19 of the following reasons:

5 20 ~~a. Cruelty or indifference to adult day services program~~  
5 21 ~~service recipients.~~

5 22 ~~b. a. Appropriation or conversion of the property of an~~  
5 23 ~~adult day services programs service recipient a participant~~  
5 24 ~~without the recipient's participant's written consent or the~~  
5 25 ~~written consent of the service recipient's participant's legal~~  
5 26 ~~guardian representative.~~

5 27 ~~c. b. Permitting, aiding, or abetting the commission of~~  
5 28 ~~any illegal act in the adult day services program.~~

5 29 ~~d. c. Obtaining or attempting to obtain or retain~~  
5 30 ~~certification by fraudulent means, misrepresentation, or by~~  
5 31 ~~submitting false information.~~

5 32 ~~e. d. Habitual intoxication or addiction to the use of~~  
5 33 ~~drugs by the applicant, owner, manager, or supervisor of the~~  
5 34 ~~adult day services program.~~

5 35 ~~f. e. Securing the devise or bequest of the property of a~~  
6 1 ~~recipient of services of an adult day services program~~  
6 2 ~~participant by undue influence.~~

6 3 ~~g. f. Failure or neglect to maintain a required~~  
6 4 ~~continuing education and training program for all personnel~~  
6 5 ~~employed in the adult day services program.~~

6 6 ~~h. g. Founded dependent adult abuse as defined in section~~  
6 7 ~~235B.2.~~

6 8 ~~i. h. In the case of any officer, member of the board of~~  
6 9 ~~directors, trustee, or designated manager of the program or~~  
6 10 ~~any stockholder, partner, or individual who has greater than a~~  
6 11 ~~five percent equity interest in the program, who has or has~~  
6 12 ~~had an ownership interest in an adult day services program,~~  
6 13 ~~assisted living program, elder group home, home health agency,~~  
6 14 ~~residential care facility, or licensed nursing facility in any~~  
6 15 ~~state which has been closed due to removal of program, agency,~~  
6 16 ~~or facility licensure or certification or involuntary~~  
6 17 ~~termination from participation in either the medical~~  
6 18 ~~assistance or Medicare programs, or who has been found to have~~  
6 19 ~~failed to provide adequate protection or services for~~  
6 20 ~~participants to prevent abuse or neglect.~~

6 21 ~~j. i. In the case of a certificate applicant or an existing~~  
6 22 ~~certified owner or operator who is an entity other than an~~  
6 23 ~~individual, the person is in a position of control or is an~~  
6 24 ~~officer of the entity and engages in any act or omission~~  
6 25 ~~proscribed by this chapter.~~

6 26 ~~k. j. For any other reason as provided by law or~~  
6 27 ~~administrative rule.~~

6 28 Sec. 7. Section 231D.6, subsection 3, Code 2005, is  
6 29 amended to read as follows:

6 30 3. When the department of inspections and appeals finds  
6 31 that an immediate danger to the health or safety of ~~recipients~~  
6 32 ~~of services from participants in an adult day services program~~  
6 33 ~~exists which requires action on an emergency basis, the~~  
6 34 ~~department of inspections and appeals may direct the removal~~  
6 35 ~~of all recipients of services from an participants in the~~  
7 1 ~~adult day services program and suspend the certificate prior~~  
7 2 ~~to a hearing.~~

7 3 Sec. 8. Section 231D.9, subsection 1, Code 2005, is  
7 4 amended to read as follows:

7 5 1. A person with concerns regarding the operations or

6 service delivery of an adult day services program may file a  
7 complaint with the department of inspections and appeals. The  
8 name of the person who files a complaint with the department  
9 of inspections and appeals and any personal identifying  
10 information of the person or any ~~recipient of program services~~  
11 participant identified in the complaint shall be kept  
12 confidential and shall not be subject to discovery, subpoena,  
13 or other means of legal compulsion for its release to a person  
14 other than employees of the department of inspections and  
15 appeals involved in the investigation of the complaint.

16 Sec. 9. NEW SECTION. 231D.9A INFORMAL REVIEW.

17 1. If an adult day services program contests the findings  
18 of regulatory insufficiencies of a monitoring evaluation or  
19 complaint investigation, the program shall submit written  
20 information, demonstrating that the program was in compliance  
21 with the applicable requirement at the time of the monitoring  
22 evaluation or complaint investigation, to the department of  
23 inspections and appeals for review.

24 2. The department of inspections and appeals shall review  
25 the written information submitted within ten working days of  
26 the receipt of the information. At the conclusion of the  
27 review, the department of inspections and appeals may affirm,  
28 modify, or dismiss the regulatory insufficiencies. The  
29 department of inspections and appeals shall notify the program  
30 in writing of the decision to affirm, modify, or dismiss the  
31 regulatory insufficiencies, and the reasons for the decision.

32 3. In the case of a complaint investigation, the  
33 department of inspections and appeals shall also notify the  
34 complainant, if known, of the decision and the reasons for the  
35 decision.

1 Sec. 10. Section 231D.10, Code 2005, is amended to read as  
2 follows:

3 231D.10 PUBLIC DISCLOSURE OF FINDINGS.

4 ~~Following~~ Upon completion of a monitoring evaluation or  
5 complaint investigation of an adult day services program by  
6 the department of inspections and appeals pursuant to this  
7 chapter, including the conclusion of all administrative  
8 ~~appeals processes,~~ the department's final findings with  
9 respect to compliance by the adult day services program with  
10 requirements for certification shall be made available to the  
11 public in a readily available form and place. Other  
12 information relating to an adult day services program that is  
13 obtained by the department of inspections and appeals which  
14 does not constitute the department's final findings from a  
15 monitoring evaluation or complaint investigation of the adult  
16 day services program shall be made available to the department  
17 ~~upon request to facilitate policy decisions, but shall not be~~  
18 made available to the public except in proceedings involving  
19 the denial, suspension, or revocation of a certificate under  
20 this chapter.

21 Sec. 11. Section 231D.11, Code 2005, is amended to read as  
22 follows:

23 231D.11 PENALTIES.

24 1. A person establishing, conducting, managing, or  
25 operating an adult day services program without a certificate  
26 is guilty of a serious misdemeanor. Each day of continuing  
27 violation after conviction or notice from the department of  
28 inspections and appeals by certified mail of a violation shall  
29 be considered a separate offense or chargeable offense. A  
30 person establishing, conducting, managing, or operating an  
31 adult day services program without a certificate may be  
32 temporarily or permanently restrained by a court of competent  
33 jurisdiction from such activity in an action brought by the  
34 state.

35 2. ~~A person who prevents or interferes with or attempts to~~  
1 ~~impede in any way any duly authorized representative of the~~  
2 ~~department of inspections and appeals in the lawful~~  
3 ~~enforcement of this chapter or of the rules adopted pursuant~~  
4 ~~to this chapter is guilty of a simple misdemeanor. As used in~~  
5 ~~this subsection, lawful enforcement includes but is not~~  
6 ~~limited to:~~

7 a. ~~Contacting or interviewing any participant of an adult~~  
8 ~~day services program in private at any reasonable hour and~~  
9 ~~without advance notice.~~

10 b. ~~Examining any relevant records of an adult day services~~  
11 ~~program.~~

12 c. ~~Preserving evidence of any violation of this chapter or~~  
13 ~~of the rules adopted pursuant to this chapter.~~

14 3. ~~2.~~ A civil penalty, as established by rule, may apply  
15 in any of the following situations:

16 a. Program noncompliance with one or more regulatory



9 17 requirements has caused or is likely to cause harm, serious  
9 18 injury, threat, or death to a ~~recipient of program services~~  
9 19 ~~participant~~.

9 20 b. Program failure or refusal to comply with regulatory  
9 21 requirements within prescribed time frames.

9 22 c. ~~Preventing or interfering with or attempting to impede~~  
9 23 ~~in any way any duly authorized representative of the~~  
9 24 ~~department of inspections and appeals in the lawful~~  
9 25 ~~enforcement of this chapter or of the rules adopted pursuant~~  
9 26 ~~to this chapter. As used in this paragraph, "lawful~~  
9 27 ~~enforcement" includes but is not limited to:~~

9 28 (1) ~~Contacting or interviewing any participant in an adult~~  
9 29 ~~day services program in private at any reasonable hour and~~  
9 30 ~~without advance notice.~~

9 31 (2) ~~Examining any relevant records of an adult day~~  
9 32 ~~services program.~~

9 33 (3) ~~Preserving evidence of any violation of this chapter~~  
9 34 ~~or of the rules adopted pursuant to this chapter.~~

9 35 Sec. 12. Section 231D.12, Code 2005, is amended to read as  
10 1 follows:

10 2 231D.12 RETALIATION BY AN ADULT DAY SERVICES PROGRAM  
10 3 PROHIBITED.

10 4 1. An adult day services program shall not discriminate or  
10 5 retaliate in any way against a ~~recipient participant~~,  
10 6 ~~recipient's participant's~~ family, or an employee of the  
10 7 program who has initiated or participated in any proceeding  
10 8 authorized by this chapter. An adult day services program  
10 9 that violates this section is subject to a penalty as  
10 10 established by administrative rule, to be assessed and  
10 11 collected by the department of inspections and appeals and  
10 12 paid into the state treasury to be credited to the general  
10 13 fund of the state.

10 14 2. Any attempt to discharge a ~~recipient participant~~ from  
10 15 an adult day services program by whom or upon whose behalf a  
10 16 complaint has been submitted to the department of inspections  
10 17 and appeals under section 231D.9, within ninety days after the  
10 18 filing of the complaint or the conclusion of any proceeding  
10 19 resulting from the complaint, shall raise a rebuttable  
10 20 presumption that the action was taken by the program in  
10 21 retaliation for the filing of the complaint, except in  
10 22 situations in which the ~~recipient participant~~ is discharged  
10 23 due to changes in health status which exceed the level of care  
10 24 offered by the adult day services program or in other  
10 25 situations as specified by rule.

10 26 Sec. 13. NEW SECTION. 231D.13A MEDICATION SETUP ==  
10 27 ADMINISTRATION AND STORAGE OF MEDICATIONS.

10 28 1. An adult day services program may provide for  
10 29 medication setup if requested by a participant or the  
10 30 participant's legal representative. If medication setup is  
10 31 provided following such request, the program shall be  
10 32 responsible for the specific task requested and the  
10 33 participant shall retain responsibility for those tasks not  
10 34 requested to be provided.

10 35 2. If medications are administered or stored by an adult  
11 1 day services program, or if the adult day services program  
11 2 provides for medication setup, all of the following shall  
11 3 apply:

11 4 a. If administration of medications is delegated to the  
11 5 program by the participant or the participant's legal  
11 6 representative, the medications shall be administered by a  
11 7 registered nurse, licensed practical nurse, or advanced  
11 8 registered nurse practitioner licensed or registered in Iowa  
11 9 or by the individual to whom such licensed or registered  
11 10 individuals may properly delegate administration of  
11 11 medications.

11 12 b. Medications, other than those self-administered by the  
11 13 participant or provided through medication setup, shall be  
11 14 stored in locked storage that is not accessible to persons  
11 15 other than employees responsible for administration or storage  
11 16 of medications.

11 17 c. Medications shall be labeled and maintained in  
11 18 compliance with label instructions and state and federal law.

11 19 d. A person other than a dispensing pharmacist shall not  
11 20 alter the prescription.

11 21 e. Medications shall be stored in their originally  
11 22 received containers.

11 23 f. If medication setup is provided by the program at the  
11 24 request of the participant or the participant's legal  
11 25 representative, or if medication administration is delegated  
11 26 to the program by the participant or the participant's legal  
11 27 representative, appropriate staff of the program may transfer

11 28 the medications in the participant's presence from the  
11 29 original prescription container to medication dispensing  
11 30 containers, reminder containers, or medication cups.  
11 31 g. Program assistance with medication administration as  
11 32 specified in the contractual agreement shall not require the  
11 33 program to provide assistance with the storage of medications.  
11 34 Sec. 14. Section 231D.16, Code 2005, is amended to read as  
11 35 follows:

12 1 231D.16 TRANSITION PROVISIONS PROVISION.

12 2 1. ~~Adult day services programs voluntarily accredited by a~~  
12 3 ~~recognized accrediting entity prior to July 1, 2003, shall~~  
12 4 ~~comply with this chapter by June 30, 2004.~~

12 5 2. 1. Adult day services programs that are serving at  
12 6 least two but not more than five persons that are not  
12 7 voluntarily accredited by a recognized accrediting entity  
12 8 prior to July 1, 2003, shall comply with this chapter by June  
12 9 30, 2005.

12 10 2. A hospital licensed pursuant to chapter 135B, a health  
12 11 care facility licensed pursuant to chapter 135C, or an  
12 12 assisted living program certified pursuant to chapter 231C may  
12 13 operate an adult day services program if the adult day  
12 14 services program is certified pursuant to this chapter.

12 15 3. A certified adult day services program that complies  
12 16 with the requirements of this chapter shall not be required to  
12 17 be licensed or certified as another type of facility, unless  
12 18 the facility is represented to the public as another type of  
12 19 facility.

12 20 Sec. 15. NEW SECTION. 231D.17 WRITTEN CONTRACTUAL  
12 21 AGREEMENT REQUIRED.

12 22 1. An adult day services program shall not operate in this  
12 23 state unless a written contractual agreement is executed  
12 24 between the adult day services program and each participant or  
12 25 the participant's legal representative prior to the  
12 26 participant's admission to the program, and unless the adult  
12 27 day services program operates in accordance with the terms of  
12 28 the written contractual agreement. The adult day services  
12 29 program shall deliver to the participant or the participant's  
12 30 legal representative a complete copy of the written  
12 31 contractual agreement and all supporting documents and  
12 32 attachments, prior to the participant's admission to the  
12 33 program, and shall also deliver a written copy of changes to  
12 34 the written contractual agreement, if any changes to the copy  
12 35 originally delivered are subsequently made, at least thirty  
13 1 days prior to any changes, unless otherwise provided in this  
13 2 section.

13 3 2. An adult day services program written contractual  
13 4 agreement shall clearly describe the rights and  
13 5 responsibilities of the participant and the program. The  
13 6 written contractual agreement shall also include but is not  
13 7 limited to inclusion of all of the following information in  
13 8 the body of the agreement or in the supporting documents and  
13 9 attachments:

13 10 a. A description of all fees, charges, and rates  
13 11 describing admission and basic services covered, and any  
13 12 additional and optional services and their related costs.

13 13 b. A statement regarding the impact of the fee structure  
13 14 on third-party payments, and whether third-party payments and  
13 15 resources are accepted by the adult day services program.

13 16 c. The procedure followed for nonpayment of fees.

13 17 d. Identification of the party responsible for payment of  
13 18 fees and identification of the participant's legal  
13 19 representative, if any.

13 20 e. The term of the written contractual agreement.

13 21 f. A statement that the adult day services program shall  
13 22 notify the participant or the participant's legal  
13 23 representative, as applicable, in writing at least thirty days  
13 24 prior to any change being made in the written contractual  
13 25 agreement, with the following exceptions:

13 26 (1) When the participant's health status or behavior  
13 27 constitutes a substantial threat to the health or safety of  
13 28 the participant, other participants, or others, including when  
13 29 the participant refuses to consent to discharge.

13 30 (2) When an emergency or a significant change in the  
13 31 participant's condition results in the need for the provision  
13 32 of services that exceed the type or level of services included  
13 33 in the written contractual agreement and the necessary  
13 34 services cannot be safely provided by the adult day services  
13 35 program.

14 1 g. A statement that all participant information shall be  
14 2 maintained in a confidential manner to the extent required  
14 3 under state and federal law.

14 4 h. Discharge, involuntary transfer, and transfer criteria  
14 5 and procedures, which ensure a safe and orderly transfer.  
14 6 i. The internal appeals process provided relative to an  
14 7 involuntary transfer.  
14 8 j. The program's policies and procedures for addressing  
14 9 grievances between the adult day services program and the  
14 10 participants, including grievances relating to transfer and  
14 11 occupancy.  
14 12 k. A statement of the prohibition against retaliation as  
14 13 prescribed in section 231D.12.  
14 14 l. The emergency response policy.  
14 15 m. The staffing policy which specifies staff is available  
14 16 during all times of program operation, if nurse delegation  
14 17 will be used, and how staffing will be adapted to meet  
14 18 changing participant needs.  
14 19 n. In dementia-specific adult day services programs, a  
14 20 description of the services and programming provided to meet  
14 21 the life skills and social activities of participants.  
14 22 o. The refund policy.  
14 23 p. A statement regarding billing and payment procedures.  
14 24 3. Written contractual agreements and related documents  
14 25 executed by each participant or participant's legal  
14 26 representative shall be maintained by the adult day services  
14 27 program in program files from the date of execution until  
14 28 three years from the date the written contractual agreement is  
14 29 terminated. A copy of the most current written contractual  
14 30 agreement shall be provided to members of the general public,  
14 31 upon request. Written contractual agreements and related  
14 32 documents shall be made available for on-site inspection to  
14 33 the department of inspections and appeals upon request and at  
14 34 reasonable times.  
14 35 Sec. 16. NEW SECTION. 231D.18 INVOLUNTARY TRANSFER.  
15 1 1. If an adult day services program initiates the  
15 2 involuntary transfer of a participant and the action is not a  
15 3 result of a monitoring evaluation or complaint investigation  
15 4 by the department of inspections and appeals, and if the  
15 5 participant or participant's legal representative contests the  
15 6 transfer, the following procedure shall apply:  
15 7 a. The adult day services program shall notify the  
15 8 participant or participant's legal representative, in  
15 9 accordance with the written contractual agreement, of the need  
15 10 to transfer and the reason for the transfer.  
15 11 b. If, following the internal appeals process, the adult  
15 12 day services program upholds the transfer decision, the  
15 13 participant or participant's legal representative may utilize  
15 14 other remedies authorized by law to contest the transfer.  
15 15 2. The department, in consultation with the department of  
15 16 inspections and appeals and affected industry, professional,  
15 17 and consumer groups, shall establish by rule, in accordance  
15 18 with chapter 17A, procedures to be followed, including the  
15 19 opportunity for hearing, when the transfer of a participant  
15 20 results from a monitoring evaluation or complaint  
15 21 investigation conducted by the department of inspections and  
15 22 appeals.  
15 23 HF 587  
15 24 pf:nh/es/25